

**§ 260.50 Suspension or revocation of license of licensed sampler or licensed inspector.**

Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed sampler, or licensed inspector, issued pursuant to the regulations in this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 7 day period and consideration of such argument and evidence, the Secretary shall take such action as he deems appropriate with respect to such suspension or revocation.

**§ 260.51 Surrender of license.**

Upon termination of his services as a licensed sampler or licensed inspector, or suspension or revocation of his license, such licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in a case of an expired license.

SAMPLING

**§ 260.57 How samples are drawn by inspectors or licensed samplers.**

An inspector or a licensed sampler shall select samples, upon request, from designated lots of processed products which are so placed as to permit thorough and proper sampling in accordance with the regulations in this part. Such person shall, unless otherwise directed by the Secretary, select sample units of such products at random, and from various locations in each lot in such manner and number, not inconsistent with the regulations in this part, as to secure a representative sample of the lot. Samples drawn for inspection shall be furnished by the applicant at no cost to the Department.

**§ 260.58 Accessibility for sampling.**

Each applicant shall cause the processed products for which inspection is requested to be made accessible for proper sampling. Failure to make any lot accessible for proper sampling shall be sufficient cause for postponing inspection service until such time as such lot is made accessible for proper sampling.

**§ 260.59 How officially drawn samples are to be identified.**

Officially drawn samples shall be marked by the inspector or licensed sampler so such samples can be properly identified for inspection.

**§ 260.60 How samples are to be shipped.**

Unless otherwise directed by the Secretary, samples which are to be shipped to any office of inspection shall be forwarded to the office of inspection serving the area in which the processed products from which the samples were drawn is located. Such samples shall be shipped in a manner to avoid, if possible, any material change in the quality or condition of the sample of the processed product. All transportation charges in connection with such shipments of samples shall be at the expense of the applicant and wherever practicable, such charges shall be prepaid by him.

**§ 260.61 Sampling plans and procedures for determining lot compliance.**

(a) Except as otherwise provided for in this section in connection with in-plant inspection and unless otherwise approved by the Secretary, samples shall be selected from each lot in the exact number of sample units indicated for the lot size in the applicable single sampling plan or, at the discretion of the inspection service, any comparable multiple sampling plan: *Provided*, That at the discretion of the inspection service the number of sample units selected may be increased to the exact number of sample units indicated for any one of the larger sample sizes provided for in the appropriate plans.

(b) Under the single sampling plans with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirements) in the sample does not exceed the acceptance number prescribed for the sample size the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample exceeds the acceptance number prescribed for the sample size the lot fails the requirement.

(c) Under the multiple sampling plans inspection commences with the smallest sample size indicated under the appropriate plan and with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered does not exceed the acceptance number prescribed for that sample size the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered equals or exceeds the rejection number prescribed for that sample size the lot fails the requirement; or

(3) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered falls between the acceptance and rejection numbers of the plan, additional sample units are added to the sample so that the sample thus cumulated equals the next larger cumulative sample size in the plan. It may then be determined that the lot meets or fails the specific requirement by considering the cumulative sample and applying the procedures outlined in paragraphs (c)(1) and (2) of this section or by considering successively larger samples cumulated in the same manner until the lot meets or fails the specific requirement.

(d) If in the conduct of any type of in-plant inspection the sample is exam-

ined before the lot size is known and the number of sample units exceeds the prescribed sample size for such lot but does not equal any of the prescribed larger sample sizes the lot may be deemed to meet or fail a specific requirement in accordance with the following procedure:

(1) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample does not exceed the acceptance number of the next smaller sample size the lot meets the requirements;

(2) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample equals the acceptance number prescribed for the next larger sample size additional sample units shall be selected to increase the sample to the next larger prescribed sample size;

(3) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample exceeds the acceptance number prescribed for the next larger sample size the lot fails the requirement.

(e) In the event that the lot compliance determination provisions of a standard or specification are based on the number of specified deviations instead of deviants the procedures set forth in this section may be applied by substituting the word "deviation" for the word "deviant" wherever it appears.

(f) Sampling plans referred to in this section are those contained in Tables I, II, III, IV, V, and VI which follow or any other plans which are applicable. For processed products not included in these tables, the minimum sample size shall be the exact number of sample units prescribed in the table, container group, and lot size that, as determined by the inspector, most closely resembles the product, type, container size and amount of product to be samples.

SINGLE SAMPLING PLANS AND ACCEPTANCE LEVELS  
TABLE I—CANNED OR SIMILARLY PROCESSED FISHERY PRODUCTS, AND PRODUCTS THEREOF CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

Container size group	Lot size (number of containers)									
GROUP 1 Any type of container of less volume than that of a No. 300 size can (300×407) .....	3,600 or less	3,601–14,400	14,401–48,000	48,001–96,000	96,001–156,000	156,001–228,000	228,001–300,000	300,001–420,000	Over 420,000	
GROUP 2 Any type of container of a volume equal to or exceeding that of a No. 300 size can, but not exceeding that of a No. 3 cylinder size can (404×700) .....	2,400 or less	2,401–12,000	12,001–24,000	24,001–48,000	48,001–72,000	72,001–108,000	108,001–168,000	168,001–240,000	Over 240,000	
GROUP 3 Any type of container of a volume exceeding that of a No. 3 cylinder size can, but not exceeding that of a No. 12 size can (603×812) .....	1,200 or less	1,201–7,200	7,201–15,000	15,001–24,000	24,001–36,000	36,001–60,000	60,001–84,000	84,001–120,000	Over 120,000	
GROUP 4 Any type of container of a volume exceeding that of a No. 12 size can, but not exceeding that of a 5-gallon container .....	200 or less	201–800	801–1,600	1,601–2,400	2,401–3,600	3,601–8,000	8,001–16,000	16,001–28,000	Over 28,000	
GROUP 5 Any type of container of a volume exceeding that of a 5-gallon container .....	25 or less	26–80	81–200	201–400	401–800	801–1,200	1,201–2,000	2,001–3,200	Over 3,200	

Single sampling plans<sup>1</sup>

Sample size (number of sample units) <sup>2</sup> .....	3	6	13	21	29	38	48	60	72
Acceptance number .....	0	1	2	3	4	5	6	7	.....

<sup>1</sup>For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

<sup>2</sup>The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Groups 4 and 5—approximately 2 pounds of product. When determined by the inspector that a 2-pound sample unit is inadequate, a larger sample unit may be substituted.

TABLE II—FROZEN OR SIMILARLY PROCESSED FISHERY PRODUCTS, AND PRODUCTS THEREOF CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

Container size group	Lot size (number of containers)									
GROUP 1 Any type of container of 1 pound or less net weight .....	2,400 or less	2,401–12,000	12,001–24,000	24,001–48,000	48,001–72,000	72,001–108,000	108,001–168,000	168,001–240,000	Over 240,000	
GROUP 2 Any type of container over 1 pound but not over 4 pounds net weight .....	1,800 or less	1,801–8,400	8,401–18,000	18,001–36,000	36,001–60,000	60,001–96,000	96,001–132,000	132,001–168,000	Over 168,000	
GROUP 3 Any type of container over 4 pounds but not over 10 pounds net weight .....	900 or less	901–3,600	3,601–10,800	10,801–18,000	18,001–36,000	36,001–60,000	60,001–84,000	84,001–120,000	Over 120,000	
GROUP 4 Any type of container over 10 pounds but not over 100 pounds net weight .....	200 or less	201–800	801–1,600	1,601–2,400	2,401–3,600	3,601–8,000	8,001–16,000	16,001–28,000	Over 28,000	
GROUP 5 Any type of container over 100 pounds net weight .....	25 or less	26–80	81–200	201–400	401–800	801–1,200	1,201–2,000	2,001–3,200	Over 3,200	
Single sampling plans <sup>1</sup>										
Sample size (number of sample units) <sup>2</sup> .....	3	6	13	21	29	38	48	60	72	

Container size group	Lot size (number of containers)								
Acceptance number .....	0	1	2	3	4	5	6	7	8

<sup>2</sup>The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Groups 4 and 5—approximately 3 pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit or 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 pounds.

Container size group <sup>1</sup>	Lot size (number of containers)							
	5,400 or less	5,401–21,600	21,601–62,400	62,401–112,000	112,001–174,000	174,001–240,000	240,001–360,000	360,001–480,000
GROUP 1 Any type of container of 12 ounces or less .....								
GROUP 2 Any type of container over 12 ounces but not over 60 ounces .....	5,400 or less	5,401–21,600	21,601–62,400	62,401–112,000	112,001–174,000	174,001–240,000	240,001–360,000	360,001–480,000
GROUP 3 Any type of container over 60 ounces but not over 160 ounces .....	3,600 or less	3,601–14,400	14,401–48,000	48,001–96,000	96,001–156,000	156,001–228,000	228,001–300,000	300,001–420,000
GROUP 4 Any type of container over 160 ounces but not over 168 ounces .....	1,800 or less	1,801–8,400	8,401–18,000	18,001–60,000	36,001–60,000	60,001–96,000	96,001–132,000	132,001–168,000
GROUP 5 Any type of container over 168 ounces but not over 320 ounces .....	200 or less	201–800	801–1,600	1,601–3,200	3,201–8,000	8,001–16,000	16,001–24,000	24,001–32,000
Any type of container over 320 ounces but not over 3,200 ounces .....	25 or less	26–80	81–200	201–400	401–800	801–1,200	1,201–2,000	2,001–3,200

Single sampling plans<sup>2</sup>

Sample size (number of sample units) <sup>3</sup> .....	3	6	13	21	29	38	48	60	72
Acceptance number .....	0	1	2	3	4	5	6	7	8

<sup>1</sup> Ounces pertain to either fluid ounces of volume or avoirdupois ounces of net weight whichever is applicable for the product involved.

<sup>2</sup> For extension of the single sample sizes beyond 72 sample units, refer to table V of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

<sup>3</sup> The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. A smaller sample unit may be substituted in group 3 at the inspector's discretion. Groups 4, 5, and 6—approximately 16 ounces of product. When determined by the inspector that a 16-ounce sample unit is inadequate, a larger sample unit may be substituted.

TABLE IV—DEHYDRATED FISHERY AND RELATED PRODUCTS

Container size group	Lot size (number of containers)									
GROUP 1 Any type of container of 1 pound or less net weight .....	1,800 or less	1,801–8,400	8,401–18,000	18,001–36,000	36,001–60,000	60,001–96,000	96,001–132,000	132,001–168,000	Over 168,000	
GROUP 2 Any type of container over 1 pound but not over 6 pounds net weight .....	900 or less	901–3,600	3,601–10,800	10,801–18,000	18,001–36,000	36,001–60,000	60,001–84,000	84,001–120,000	Over 120,000	
GROUP 3 Any type of container over 6 pounds but not over 20 pounds net weight .....	200 or less	201–800	801–1,600	1,601–3,200	3,201–8,000	8,001–16,000	16,001–24,000	24,001–32,000	Over 32,000	
GROUP 4 Any type of container over 20 pounds but not over 100 pounds net weight .....	48 or less	49–400	401–1,200	1,201–2,000	2,001–2,800	2,801–6,000	6,001–9,600	9,601–15,000	Over 15,000	
GROUP 5 Any type of container over 100 pounds net weight .....	16 or less	17–80	81–200	201–400	401–800	801–1,200	1,201–2,000	2,001–3,200	Over 3,200	
Single sampling plans <sup>1</sup>										
Sample size (number of sample units) <sup>2</sup> .....	3	6	13	21	29	38	48	60	72	

Container size group	Lot size (number of containers)							
Acceptance number ....	0	1	2	3	4	5	6	7 8

<sup>1</sup> For extension of the single sample sizes beyond 72 sample units, for multiple sampling plans comparable to the various single sampling plans refer to table VI of this section.

<sup>2</sup> The sample units for the various container size groups are as follows: Group 1—1 container and its entire contents or a small-container sample unit when determined by the inspector to be adequate. Groups 2, 3, 4, and 5—1 container and its entire contents or a small-container sample unit when determined by the inspector to be adequate.

TABLE V—SINGLE SAMPLING PLANS FOR USE IN INCREASING SAMPLE SIZE BEYOND 72 SAMPLE UNITS

Sample size, $n$ .....	84	96	108	120	132	144	156	168	180	192	204	216	230	244	258	272	286	300	314	328	342	356	370	384	400
Acceptance numbers, $c$ .....	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33

## MULTIPLE SAMPLING PLANS<sup>1</sup>

### TABLE VI—MULTIPLE SAMPLING PLANS COMPARABLE TO THE INDICATED SINGLE SAMPLING PLANS

[illegible]

These multiple sampling plans may be used in lieu of the single sampling plans listed at the heading of each column.

**§ 260.62 Issuance of certificate of sampling.**

Each inspector and each licensed sampler shall prepare and sign a certificate of sampling to cover the samples drawn by the respective person, except that an inspector who inspects the samples which he has drawn need not prepare a certificate of sampling. One copy of each certificate of sampling prepared shall be retained by the inspector or licensed sampler (as the case may be) and the original and all other copies thereof shall be disposed of in accordance with the instructions of the Secretary.

**§ 260.63 Identification of lots sampled.**

Each lot from which officially drawn samples are selected shall be marked in such manner as may be prescribed by the Secretary, if such lots do not otherwise possess suitable identification.

## FEES AND CHARGES

**§ 260.69 Payment fees and charges.**

Fees and charges for any inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of the regulations in this part, and, if so required by the person in charge of the office of inspection serving the area where the services are to be performed, an advance of funds prior to rendering inspection service in an amount suitable to the Secretary, or a surety bond suitable to the Secretary, may be required as a guarantee of payment for the services rendered. All fees and charges for any inspection service, performed pursuant to the regulations in this part shall be paid by check, draft, or money order made payable to the National Marine Fisheries Service. Such check, draft, or money order shall be remitted to the appropriate regional or area office serving the geographical area in which the services are performed, within ten (10) days from the date of billing, unless otherwise specified in a contract between the applicant and the Secretary, in which latter event the contract provisions shall apply.

[36 FR 21038, Nov. 3, 1971]

**§ 260.70 Schedule of fees.**

(a) Unless otherwise provided in a written agreement between the applicant and the Secretary, the fees to be charged and collected for any inspection service performed under the regulations in this part at the request of the United States, or any other agency or instrumentality thereof, will be published as a notice in the FEDERAL REGISTER and will be in accordance with § 260.81.

(b) Fees are reviewed annually to ascertain that the hourly fees charged are adequate to recover the costs of the services rendered.

(1) The TYPE I (Contract Inspection) hourly fee is determined by dividing the estimated annual costs by the estimated annual billable hours.

(2) The TYPE II (Lot Inspection) hourly fee is determined by adding a factor of 50 percent to the TYPE I fee, to cover additional costs (down-time, etc.) associated with conducting lot inspection services.

(3) The TYPE III (Miscellaneous and Consulting) hourly fee is determined by adding a factor of 25 percent to the TYPE I fee, to cover the additional costs (down-time, etc.) associated with conducting miscellaneous inspection services.

[48 FR 24901, June 3, 1983]

**§ 260.71 [Reserved]****§ 260.72 Fees for inspection service performed under cooperative agreement.**

The fees to be charged and collected for any inspection or similar service performed under cooperative agreement shall be those provided for by such agreement.

**§ 260.73 Disposition of fees for inspections made under cooperative agreement.**

Fees for inspection under a cooperative agreement with any State or person shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement as may be due the United States shall be remitted in accordance with § 260.69.